

March 17, 1999

Dear State Medicaid Director:

The purpose of this letter is to provide guidance on a recently issued final rule regarding States' obligation to notify the Office of Inspector General (OIG) when certain sanction actions are taken against Medicaid program participants.

On September 2, 1998, a final rule was published ([Federal Register Volume 63, Number 170, Page 46676](#)) that addresses revisions to the OIG's administrative sanction authorities. Some of these revisions strengthen existing laws pertaining to information collection, reporting requirements, and exclusions from Federal health care programs, including Medicaid. The information to be reported will enable the OIG to more effectively exercise its authority to exclude practitioners and providers who pose a risk to Federal health care programs and beneficiaries based on actions to limit participation undertaken by State Medicaid agencies. We believe this regulation both complements and supplements our efforts to combat fraud and abuse and reduce waste in the Medicaid program, and we encourage you to collect the information necessary to promptly notify the Inspector General of actions your State takes to limit the ability of an individual or entity to participate in your Medicaid program in accordance with the revised regulation.

A number of States have inquired about certain sections of this regulation. Of particular interest has been Paragraph 1002.3, entitled Disclosure by Providers and State Medicaid Agencies, which requires agencies to promptly notify the Inspector General of any action it takes to "limit the ability of an individual or entity to participate in its program, regardless of what such an action is called. This includes, but is not limited to, suspension actions, settlement agreements and situations where an individual or entity voluntarily withdraws from the program to avoid a formal sanction."

Therefore, we would like to provide clarification as to when a State Medicaid agency is obligated to notify the Inspector General when an individual or entity voluntarily withdraws from the Medicaid program, and when it is not obligated to report. This rule requires notification only after a formal proceeding has begun, as is noted on page 46683 of the Federal Register:

Informal contacts with the provider, short of written notice, have been viewed as not constituting the start of a formal proceeding. If a provider withdraws from program participation at this early stage of an investigation or review prior to when formal charges

or notification has been made, and the provider has not been offered an opportunity to respond, such a withdrawal would not be grounds for an exclusion. Under this situation, the State Medicaid agency is not required to report the matter to the OIG.

However, notice to the Inspector General is required when a formal notice has been issued, a participant has been given an opportunity to respond, but chooses to withdraw prior to the completion of formal proceedings.

We have enclosed a copy of the regulation for your review. If you have questions about this letter, please contact your HCFA regional office.

Sincerely,

/s/

Sally K. Richardson Director Center for Medicaid and State Operations

[Enclosure](#) (**Note:** File (fr02se98.pdf) is in Adobe Acrobat format)

HCFA Regional Administrators HCFA Associate Regional Administrators for Medicaid and State Operations Lee Partridge - American Public Human Services Association Joy Wilson - National Conference of State Legislatures Matt Salo - National Governors' Association

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